



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 1, 1999

Benjamin L. Ginsberg, Esq.  
Patton Boggs, L.L.P.  
2550 M Street, N.W.  
Washington, D.C. 20037-1350

RE: MUR 4648  
New York Republican Federal Campaign  
Committee and Michael Avella, as  
treasurer; William D. Powers; Jeffrey T.  
Buley; David R. Dudley; Mary F. Obwald;  
Gregory V. Serio; and Luther Mook

Dear Mr. Ginsberg:

On October 21, 1999, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on behalf of your clients New York Republican Federal Campaign Committee and Michael Avella, as treasurer, William D. Powers, and Jeffrey T. Buley, in settlement of violations of 2 U.S.C. §§ 432(c)(5), (h)(1) and 434(b), provisions of the Federal Election Campaign Act of 1971, as amended, and 11 C.F.R. §§ 102.9(b)(1), (2) and 104.3(b), of the Commission's regulations. Accordingly, the file has been closed in this matter.

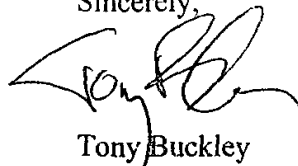
The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Information derived in connection with any conciliation attempt will not become public without the written consent of the respondents and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Benjamin L. Ginsberg, Esq.  
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Enclosed you will find a copy of the fully executed conciliation agreement for your files.  
If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tony Buckley', with a stylized flourish extending from the end.

Tony Buckley  
Attorney

Enclosure  
Conciliation Agreement

# BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

New York Republican Federal Campaign Committee  
and Michael Avella, as treasurer; William D. Powers;  
and Jeffrey T. Buley

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MUR 4648

## CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities.

The Commission found probable cause to believe that the New York Republican Federal Campaign Committee and Michael Avella, as treasurer, ("the Committee"), knowingly and willfully violated 2 U.S.C. §§ 432(c)(5), (h)(1) and 434(b) and 11 C.F.R. §§ 102.9(b)(1), (2) and 104.3(b); and that William D. Powers and Jeffrey T. Buley each knowingly and willfully violated 2 U.S.C. § 432(h)(1).

NOW, THEREFORE, the Commission and the Respondents, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding.

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. The New York Republican Federal Campaign Committee is a political committee within the meaning of 2 U.S.C. § 431(4), and a party committee within the meaning of 11 C.F.R. § 100.5(e)(4).
2. Michael Avella is the current treasurer of the New York Republican Federal Campaign Committee. Mr. Avella was not the Committee's treasurer at the time of the events in this matter.
3. Pursuant to 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.3(b)(3)(i), a political committee must report the name and address of each person to whom an expenditure in excess of \$200 is made by that committee to meet an operating expense, together with the date, amount and purpose of such expenditure.
4. Pursuant to 2 U.S.C. § 434(b)(6)(B)(iv) and 11 C.F.R. § 104.3(b)(3)(viii), a political committee must report the name and address of each person to whom an expenditure in excess of \$200 is made by that committee in connection with an expenditure under 2 U.S.C. § 441a(d) and 11 C.F.R. § 110.7, together with the date, amount and purpose of such expenditure.
5. Pursuant to 2 U.S.C. § 434(b)(6)(B)(v) and 11 C.F.R. § 104.3(b)(3)(ix), a political committee must report the name and address of each person to whom an expenditure in excess of \$200 is made by that committee for any purpose not otherwise disclosable under 2 U.S.C. § 434(b)(5) or (6), or 11 C.F.R. § 104.3(b)(3), together with the date, amount and purpose of such expenditure.

6. "Purpose" means a brief statement or description of why the disbursement was made. 11 C.F.R. § 104.3(b)(3)(i)(A). Commission regulations expressly hold that the statement "election day expenses" is not a sufficient description for reporting the purpose of a disbursement. 11 C.F.R. § 104.3 (b)(3)(i)(B).

7. Pursuant to 2 U.S.C. § 432(c)(5) and 11 C.F.R. § 102.9(b)(1), (2), a political committee must keep an account of the name and address of every person to whom it makes a disbursement, along with the date, amount, and purpose of the disbursement, including a receipt, invoice, or canceled check for each disbursement in excess of \$200.

8. Pursuant to 2 U.S.C. § 432(h)(1), no disbursement may be made by a political committee in any form other than by check drawn on the committee's account at its designated campaign depository, except for disbursements of \$100 or less from a petty cash fund. Individuals other than the treasurer of the committee in question may be liable for violations of 2 U.S.C. § 432(h)(1).

9. On its 1994 30-Day Post-General Report, the Committee reported the purpose of six disbursements to Committee personnel totaling \$60,000 as being for "election day expenses." After receiving notification from the Commission that it had misreported the purpose of these disbursements, the Committee amended its report.

10. Of the \$60,000 described in Paragraph IV, number 9, Jeffrey T. Buley obtained \$50,000 of this in cash, through checks made out to himself and David R. Dudley in the amount of \$15,000, and to Mary F. Obwald and Gregory V. Serio in the amount of \$ 10,000. Mr. Buley disbursed this cash in one lump sum to William D. Powers. Mr. Powers then disbursed the funds he received from Mr. Buley in amounts of as much as \$2,000 to numerous individuals who in

turn disbursed funds to additional individuals. The Committee reported as disbursements the four checks made out to Jeffrey T. Buley, David R. Dudley, Mary F. Obwald and Gregory V. Serio.

11. Of the \$60,000 described in Paragraph IV, number 9, the Committee issued a \$5,000 check payable to the Kings County Republican Committee, of which Arthur Bramwell is chairman.

12. Of the \$60,000 described in Paragraph IV, number 9, the Committee issued a \$5,000 check payable to Luther Mook.

13. On its 1996 30-Day Post-General Report, despite previous instruction from the Commission, the Committee reported the purpose of eight disbursements to Committee personnel totaling \$22,500 as for "election day expenses." After once again receiving notification from the Commission that it had misreported the purpose of these disbursements, the Committee amended its report.

14. Of the \$22,500 described in Paragraph IV, number 13, Jeffrey T. Buley obtained all of this in cash through checks in amounts of \$2,500 and \$3,000 made out to himself, Daryl Fox, J. Brendan Quinn, William D. Powers, Jason Powers, Kenneth Dippel, Lisa Herbst Ruggles and Mary F. Obwald. Mr. Buley disbursed this cash in one lump sum to William D. Powers. Mr. Powers then disbursed the funds he received from Mr. Buley in amounts over \$200 to numerous individuals who in turn disbursed the funds to additional individuals. The Committee reported as disbursements the checks made out to Jeffrey T. Buley, Daryl Fox, J. Brendan Quinn, William D. Powers, Jason Powers, Kenneth Dippel, Lisa Herbst Ruggles and Mary F. Obwald.

15. In 1994 and 1996, in the reports covering the periods in which the disbursements cited at Paragraph IV, Numbers 9 and 13, occurred, the Committee failed to report the full name and address of persons to whom disbursements in excess of \$200, and totaling at least \$72,500, were made, and the date, amount and purpose of each such disbursement.

16. In 1994 and 1996, the Committee did not keep an account of the name and address of every person to whom it made disbursements from funds cited at Paragraph IV, Numbers 9 and 13, totaling \$82,500, and also failed to maintain receipts, invoices, or canceled checks for each disbursement in excess of \$200 in that same effort.

17. In 1994 and 1996, the Committee, William D. Powers, and Jeffrey T. Buley, each made disbursements in excess of \$100 in the form of cash rather than by check.

V. 1. The Committee reported an improper purpose for disbursements totaling \$82,500 on their 1994 and 1996 30-Day Post-General Reports, in violation of 2 U.S.C. § 434(b) and 11 C.F.R. § 104.3(b).

2. In 1994 and 1996, for disbursements totaling at least \$72,500, the Committee failed to report the full names and addresses of, and the proper amounts of disbursements to, recipients of disbursements of \$200 or more, in violation of 2 U.S.C. § 434(b) and 11 C.F.R. § 104.3(b).

3. In 1994 and 1996, for disbursements totaling \$82,500, the Committee failed to keep an account of the name and address of every person to whom it made disbursements, and failed to maintain records, including receipts, invoices, or canceled checks, for disbursements in excess of \$200, in violation of 2 U.S.C. § 432(c)(5) and 11 C.F.R. § 102.9(b)(1), (2).

4. In 1994 and 1996, the Committee disbursed cash in excess of \$100, in violation of 2 U.S.C. § 432(h)(1).

5. In 1994 and 1996, William D. Powers and Jeffrey T. Buley each disbursed cash in excess of \$100 on behalf of the Committee, in violation of 2 U. S.C. § 432(h)(1).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of One Hundred, Twenty-eight Thousand dollars (\$128,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. *If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.*

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or



oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:


Lawrence M. Noble  
General Counsel

BY: 


Lois G. Lerner  
Associate General Counsel

Date 11/1/99

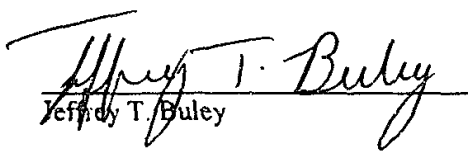
FOR THE RESPONDENTS:

  
Michael Avella  
FOR THE NEW YORK  
REPUBLICAN FEDERAL  
CAMPAIGN COMMITTEE  
and himself, AS TREASURER

Date 10/13/99

  
William D. Powers

Date Oct 13, 1998

  
Jeffrey T. Buley

Date 10/13/99